

REMARKS

This Supplemental Response is responsive to the Final Office Action mailed April 4, 2005. A previous Response After Final was filed by mail on June 30, 2005. A Notice of Non-Responsive Amendment was mailed from the U.S. Patent and Trademark Office on July 18, 2005. In the Final Action: the previously-submitted terminal disclaimer was not accepted; claims 1, 2, 4-7, 11, 15, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Salvo, et al. (USPN 6,356,205) in view of Dickey, et al. (USPN 5,821,405); claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Salvo, Dickey, and Owens (USPN 5,995,020); claim 8 was rejected under § 103(a) as being unpatentable over Salvo, Dickey, and further in view of Datasonde 4a/Brochure entitled New Series 4a Water Quality Instruments from Hydrolab; claim 9 was rejected under § 103(a) as being unpatentable over Salvo, Dickey, and further in view of Mills, et al. (USPN 6,165,005); claims 10, 12-14, 16-18, and 21 were rejected under § 103(a) as being unpatentable over Salvo, Dickey, and further in view of Henry, et al. (USPN 6,305,944).

Claims 1-9, 11, 15, 19, and 20 were canceled in the Amendment and Response filed February 10, 2005. Claims 10, 12, 14, 16, 17, and 21 were amended into independent form in that earlier amendment. Claims 22-37 are now canceled. Reconsideration of the rejected claims is hereby requested.

Claims 10, 12-14, 16-18, and 21 have been rejected in part based on Henry (USPN 6,305,944). A terminal disclaimer is enclosed herewith, along with a Power of Attorney giving the undersigned the power to sign the terminal disclaimer. The terminal disclaimer fee was included with the previously-filed Response. In addition, a declaration under 37 CFR 1.130 is

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

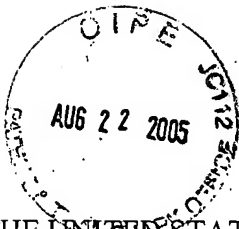
Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

Robert G. Crouch
Registration No. 34,806
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(720) 562-5506

Date: August 17, 2005



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

HENRY, et al.

Serial No.: 10/072,203

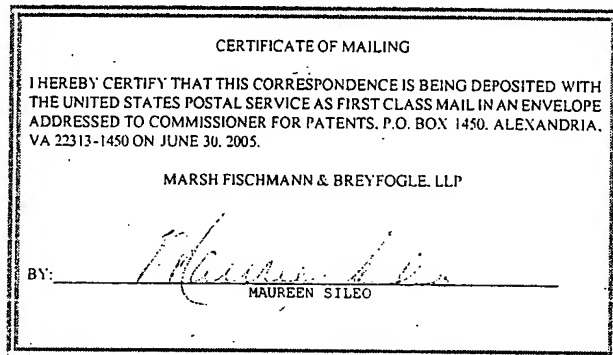
Filed: February 6, 2002

Confirmation No.: 3517

Atty. File No.: 42074-00391

For: "Multi-Parameter Monitoring System"

) Group Art Unit: 2856
)
) Examiner: Charles D. Garber
)
)
)



TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In-Situ, Inc., a corporation fully organized under the laws of the State of Wyoming and having a place of business at 221 East Lincoln Avenue, Fort Collins, CO 80524, is the owner of 100 percent interest in and to U.S. Patent Application No. 10/072,203, for "Multi-Parameter Monitoring System", filed February 6, 2002, and hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on U.S. Patent Application No. 10/072,203 which would extend beyond the expiration date of the full statutory term defined in 35 USC §§154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,305,944. The owner hereby agrees that any patent so granted on U.S. Patent

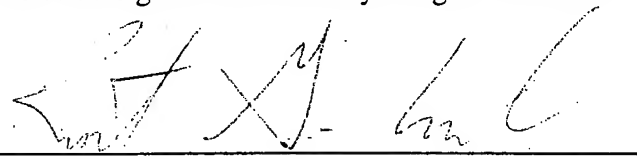
Application No. 10/072,203 shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding on the grantee, its successors or assignees.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on U.S. Patent Application Serial No. 10/072,203 that would extend to the expiration date of the full statutory term as defined in 35 USC §§154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that any such patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. ' 1.321(a), has all claims cancelled by reexamination certificate, or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

A check for the statutory disclaimer fee of \$65.00 as specified under 37 C.F.R. ' 1.20(d) is enclosed herewith.

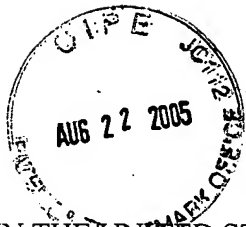
The undersigned is an attorney or agent of record.

By:


Robert G. Crouch
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MARSH FISCHMANN & BREYFOGLE LLP
3151 S. Vaughn Way #411
Aurora, Colorado 80014
(720) 562-5506

Date:

6-30-05



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

HENRY, et al.

Serial No.: 10/072,203

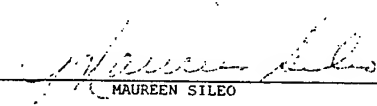
Filed: February 6, 2002

Confirmation No.: 3517

Atty. File No.: 42074-00391

For: "Multi-Parameter Monitoring System"

) Group Art Unit: 2856
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) Examiner: Charles D. Garber
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<p>CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON JUNE 30, 2005.</p> <p>MARSH FISCHMANN & BREYFOGLE, LLP</p> <p>BY:  MAUREEN SILEO</p>
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DECLARATION UNDER 37 CFR 1.130

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present application (U.S. Patent Application No. 10/072,203) and the patent (U.S. Patent No. 6,305,944) relied upon for rejection under 35 U.S.C. 103(a) (as prior art under 35 U.S.C. 102(e)) in the pending November 10, 2004 Office Action, are currently owned by the same party. That party is In-Situ, Inc., a Wyoming corporation having a place of business at 221 East Lincoln Avenue, Fort Collins, CO 80524. In-Situ owns 100% of each of the pending application and U.S. Patent No. 6,305,944.

A copy of the assignments of the present application to In-Situ, Inc. by 5 of the 6 inventors can be found recorded with the Assignment Division at the U.S. Patent and Trademark

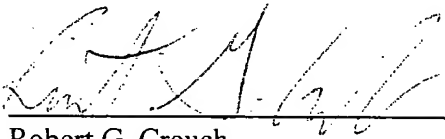
Office at Reel 012586, Frame 0121 and by the 6th inventor at Reel 012969, Frame 0584. A copy of the assignment of U.S. Patent No. 6,305,944 to In-Situ, Inc. can be found recorded with the Assignment Division at the U.S. Patent and Trademark Office at Reel 011208, Frame 0673.

Furthermore, Kent D. Henry, of 2107 East Sheridan Street, Laramie, WY 82070, the first-named inventor on the present application is the same person as Kent D. Henry, of 2107 East Sheridan Street, Laramie, WY 82070, the first-named inventor on U.S. Patent No. 6,305,944, and thus is the prior inventor under 35 U.S.C. 104.

Accordingly, under 37 CFR 1.130, the applicants hereby request that U.S. Patent No. 6,305,944 be removed as prior art from this application.

The undersigned is an attorney or agent of record.

By:


Robert G. Crouch
Registration No. 34,806
MARSH FISCHMANN & BREYFOGLE LLP
3151 S. Vaughn Way #411
Aurora, Colorado 80014
(720) 562-5506

Date: June 30, 2005



POWER OF ATTORNEY

On behalf of **In-Situ, Inc.**, a Wyoming corporation, having a principal place of business at 221 East Lincoln Avenue, Fort Collins, CO 80524, being the assignee of and owning all right, title and interest in the invention entitled "MULTI-PARAMETER MONITORING SYSTEM, for which application for Letters Patent of the United States has been made by **Kent D. Henry, Neal W. Syverson, Ronny D. Davis, Zachary A. Gray, Mark A. Watson, and Stanley B. Smith**, said application having been filed on February 6, 2002, receiving Serial No. 10/072,203, and further identified as Attorney File No. 42074-00391, I, Ken Stutzman, Director of Engineering, **In-Situ, Inc.**, hereby appoint all attorneys and/or agents associated with Customer No. 25231 (MARSH FISCHMANN & BREYFOGLE LLP, 3151 South Vaughn Way, Suite 411, Aurora, Colorado 80014, telephone number (720) 562-5506), as its attorneys and agents with full powers of substitution, association and revocation to prosecute the application and related U.S. and foreign applications and to transact all business in the United States Patent and Trademark Office and all foreign and international patent offices connected therewith.

Date: 6/28/05

IN-SITU INC.

By: 

Name: Ken Stutzman

Title: Director of Engineering

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